

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

DONALD R. HARPER, JIMMY BOSTIC,)
STACY GAGE, JOEL BROWN, and)
JERRY FREEMAN,)
)
Plaintiffs,)
)
)
v.) Case No. CIV-08-385-JHP
)
HUGO POLICE DEPARTMENT, and)
CHOCTAW COUNTY SHERIFF)
DEPARTMENT,)
)
Defendants.)

ORDER

This matter comes before the Court on Defendant Choctaw County Sheriff's Department's Motion to Dismiss Plaintiffs' Complaint and Brief in Support. (Doc. No. 24.) Plaintiffs filed a "Respond to Motion to Dismiss" (Doc. No. 40), and Defendant has replied. (Doc. No. 43.)

In order to survive a motion to dismiss for failure to state a claim upon which relief can be granted, factual allegations must be enough to raise a right to relief above the speculative level, on the assumption that all the allegations in the complaint are true even if doubtful in fact. *Bell Atlantic Corp. v. Twombly*, 127 S.Ct. 1955, 1964-65 (2007). Yet the Court need not accept as true legal conclusions from the complaint or ““naked assertion[s]’ devoid of ‘further factual enhancement.’”” *Ashcroft v. Iqbal*, ____ U.S. ____, 129 S.Ct. 1937 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. at 557). The Court, being fully advised in the premises, and based upon the reasons as more fully set forth in Defendant Choctaw County Sheriff's Department's Motion to Dismiss Plaintiffs' Complaint and Brief in Support (Doc. No. 24), finds that Plaintiffs have failed to meet this standard and Defendant's Motion to Dismiss should be and hereby is GRANTED.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendant Choctaw County Sheriff's Department's Motion to Dismiss Plaintiffs' Complaint and Brief in Support (Doc. No. 24) is granted and judgement is hereby entered in favor of Defendant.

IT IS SO ORDERED this 28th day of July 2009.



James H. Payne
United States District Judge
Eastern District of Oklahoma